IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 2104 of 2005

Between:

1. Gorrela naga Veera Venkata Satyanarayana, S/o. Veera Surya Apparao, R/o. Tadithota, 87-1-13, Rajahmundry, E.G.District.
2. Gorreela Balaji, S/o. Veera Surya Apparao, R/o. Tadithota, 87-1-13, Rajahmundry, E.G.District.

.... PETITIONERS

AND

1. Revenue Divisional Officer, Rajahmundry, E.G.District.
2. Mandal Revenue Officer, Rajahmundry Rural, E.G.District.
3. Divisional Engineer, Department of Road & Buildings, Rajahmundry, E.G.District.
4. Superintendent Engineer, Department of R&B., Rajahmundry, E.G.District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents in dispossessing the petitioners from their patta lands in an extent of Ac.6-79 in R.S.No.125/2, 125/3, 125/4, 125/6, 125/7, 103/1, 110/1 situated at Morampudi Village, Rajahmundry rural mandal, East Godavri District, without following the guidelines issued by this Hon'ble Court and without following the procedure contemplated under law as illegal, arbitrary and violative of principles of natural justice and for a consequential order directing the respondents not to dispossess the petitioners from their lawful possession and enjoyment of the land.

Counsel for the Petitioners: MR.CH.DHANAMJAYA

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader appearing for the respondents.

The petitioners seek a Writ of Mandamus declaring the action of the respondents in dispossessing the petitioners from their patta lands in an extent of Ac.6-79 in R.S.No.125/2, 125/3, 125/4, 125/6, 125/7, 103/1, 110/1 situated at Morampudi Village, Rajahmundry rural Mandal, East Godavari District, without following due process of law, as arbitrary and illegal.

It is represented by the learned counsel appearing for both parties that the issue involved in this writ petition is squarely covered by a decision of this Court in W.P.No.21198 of 1997 and batch, dated 03.02.1998, wherein the Division Bench while considering an identical question, issued guidelines as under:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass

appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4. If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of
R&B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

The learned Government Pleader appearing for the respondents does not dispute the above legal position.

Accordingly, the writ petition is disposed of with a direction to the respondents not to dispossess the petitioners from the land in question without following the guidelines issued by the Division Bench in the above Writ Petition. No order as to costs.

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G. ROHINI, J

Date:09-02-2005.

Note: Issue operative portion by wire.

B/o.

LSK

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER.

To

1. The Revenue Divisional Officer, Rajahmundry, E.G.District.
2. The Mandal Revenue Officer, Rajahmundry Rural, E.G.District.
3. The Divisional Engineer, Department of Road & Buildings, Rajahmundry, E.G.District.
4. The Superintendent Engineer, Department of R&B., Rajahmundry, E.G.District.

5. Two C.Cs. to the Government Pleader for Revenue, High Court Buildings, Hyderabad. (O.U.T.)

6. Two C.D. copies.